

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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January 23, 2012

Representative Litjens,

This preliminary draft is based on instructions received from your office on January 5 and a follow-up e-mail received on January 13. I have a number of additional questions, which are listed below:

1. Regarding the document that DPI is directed to develop comparing rights under the scholarship program with rights under state and federal special education law, the instructions implied that if a pupil receives a scholarship, federal law would not apply. I don't know why this would be true, and drafted accordingly. Please let know if this is an error.

2. The instructions state that receipt of DPI's document constitutes notice of the applicant's rights. The instructions also state that subsequent acceptance of the scholarship "constitutes the ... applicant's informed consent to the provisions of s. 115.7915." It seems odd to me that the applicant receives notice of rights specified in the document, but consents to s. 115.7915, not the document. In addition, it's unclear what provisions the applicant is consenting to in s. 115.7915. Most of the provisions relate to duties of the department or of a school board or private school. Informed consent of the applicant is not necessary for the department, the school board, or the private school to comply with these requirements. Therefore, I did not include the provision relating to acceptance of the scholarship constituting informed consent to s. 115.7915. Please let me know how you would like to proceed.

3. Please read the description of the scholarship amount carefully to make sure I've captured your intent. (Your instructions referred to "item 4 in the attached," which I did not receive.) Your instructions state that the amount would be the lesser of two calculations. The first is the average cost of special ed for a child with a disability, less the average special ed aid for a child with a disability, plus the average cost of special ed for a child with a disability. Is that right?

Also, why are costs under s. 115.88 (3) and (4) excluded in the first step of the calculation (i.e., from costs) but not in the second step, the subtracting of the amount appropriated as special ed aid (which pays for the costs under s. 115.88 (3) and (4))?

4. Regarding the second calculation (the cost to the school district or private school of providing regular instruction, special education, etc.): I assumed that this meant the cost of the particular child. Is that correct?

5. The original draft reduced a school district's general school aid payment by the total amount of scholarships awarded for pupils who reside in the school district. This draft does not change that, although your e-mail of January 13 seems to indicate some modification. If you need a change, please let me know.

Note that if you reduce a district's general aid by the average per pupil cost of special ed less the average per pupil special ed aid, and reduce a district's special ed aid by the average per pupil special ed aid, the resulting reductions may bear no relationship to the amount of the scholarship, because the scholarship may be calculated on the basis of the actual cost to the district or private school of providing regular and special ed.

Please let me know if you have questions or need more information.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.wisconsin.gov